

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

851P0417

## SENATE BILL NO. 103

Introduced by: Senators Turbak Berry, Abdallah, Garnos, Koetzle, and McCracken and  
Representatives Willadsen, Ahlers, Cutler, Engels, Miles, Pederson (Gordon),  
Rounds, and Street

1 FOR AN ACT ENTITLED, An Act to establish certain provisions regarding the use of  
2 replacement crash parts in the repair of certain motor vehicles.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 For the purposes of this Act, the term, replacement crash parts, means sheet metal or plastic  
7 parts which generally constitute the exterior of a motor vehicle, including inner and outer  
8 panels.

9 Section 2. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 No insurer may require the use of replacement crash parts in the repair of a motor vehicle  
12 unless the replacement crash part is at least of like kind and quality to the part being replaced  
13 in terms of fit, function, and finish. Replacement crash parts certified to meet the standards set  
14 by an American National Standards Institute recognized entity, including the Certified



1 Automotive Parts Association, are presumed to be at least of like kind and quality to the part  
2 being replaced in terms of fit, function, and finish.

3 Section 3. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 For any new motor vehicle that was purchased by the insured from a vehicle dealer as  
6 defined in § 32-6B-1, if the date of loss occurred within twelve months of the date of purchase,  
7 no insurer may require the use of nonoriginal equipment manufacturer replacement crash parts  
8 in the repair of a motor vehicle.

9 Section 4. That chapter 58-33 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 Nothing in this Act creates or implies a private cause of action for violation of this Act nor  
12 may be construed to create or imply third party bad faith. A violation of this Act is not  
13 admissible in any private cause of action. A domestic, foreign, or alien insurer transacting  
14 business in this state violates this Act by either:

15 (1) A series of acts or practices in violation of this Act if done with such frequency as to  
16 indicate a general business practice to engage in that type of conduct; or

17 (2) An act or practice in violation of this Act that is done flagrantly and in conscious  
18 disregard of this Act.